

To: CN=Jayne Carlin/OU=R10/O=USEPA/C=US@EPA[]
Cc: CN=David Croxton/OU=R10/O=USEPA/C=US@EPA[]
From: CN=Rick Seaborne/OU=R10/O=USEPA/C=US
Sent: Tue 5/3/2011 12:02:29 AM
Subject: Re: ACTION: Availability for OR CZARA Conference Call in June, Review Draft Agenda and Commitments/Timeline
<http://www.epa.gov/r10earth/tmdl.htm>

thanks Jayne -I've indeed been pretty swamped. Maybe we can touch bases on this soon. One concern is how the timing will impact the funding decisions- it could mean settlement language milestones really be achieved well "in advance" of the dates stated in order to minimize risk of the state losing a lot of EPA and NOAA funds (FY2015 if not even FY2014) - this may make for some nail-biting on everyone's part so really will indeed require a continued coordinated effort by all those folks as you say- which as you know is a challenge (NOAA and EPA HQ/R10, state folks etc). Being the only CZARA state with a drop-dead approve or disapprove date.. and the implications thereof..
Rick

Rick Seaborne
Nonpoint Source/319 Coordinator
US EPA Region 10, Suite 900
Office of Water & Watersheds, OWW-134
1200 Sixth Avenue, Seattle, WA 98101
Phone: (206) 553-8510 (x-0165 fax)
E-mail: seaborne.rick@epa.gov
Web: www.epa.gov/owow/nps

From: Jayne Carlin/R10/USEPA/US
To: Rick Seaborne/R10/USEPA/US@EPA
Cc: David Croxton/R10/USEPA/US@EPA
Date: 05/02/2011 11:09 AM
Subject: Re: ACTION: Availability for OR CZARA Conference Call in June, Review Draft Agenda and Commitments/Timeline

Hi Rick,

Thank you for your kind words about my organizational skills. This is certainly one of the most complicated projects, as there are so many players and programs involved.

I am working from home today and would like to call you sometime today. What is your schedule like?

Jayne Carlin, Watersheds Unit
US EPA, Region 10
1200 6th Ave, Suite 900 (OWW-134)
Seattle, WA 98101-3140
(206) 553-8512, (206) 553-0165 (fax)
carlin.jayne@epa.gov

<http://www.epa.gov/r10earth/tmdl.htm>

-----Rick Seaborne/R10/USEPA/US wrote: -----

To: Jayne Carlin/R10/USEPA/US@EPA

From: Rick Seaborne/R10/USEPA/US

Date: 04/29/2011 12:05PM

Cc: David Powers/R10/USEPA/US@EPA, David Croxton/R10/USEPA/US@EPA

Subject: Re: ACTION: Availability for OR CZARA Conference Call in June, Review Draft Agenda and Commitments/Timeline

thanks Jayne for helping organize this. I've been working with Dave Powers on this through the settlement agreement, language into the PPG and 319 approval letter, and projecting the 319 funding implications etc. I've mentioned this to (both) Dave's, also my future interest in the new development and OSDS measures (and what may represent the critical path timeline toward approval - those vs the implementation ready TMDLs) - due to the major 319 funding implications for Oregon. This appears to have become a more troubling prospect due to the LiDAR funding issue. Also how the OSDS and new development measures will correspond to WA's approval for those measures, which I am working with NOAA and EPA HQ on. Given we are really going to be under the gun to get OR approved I think all the organization skills folks can bring to bear to get through this will be needed.

Rick

Rick Seaborne

Nonpoint Source/319 Coordinator

US EPA Region 10, Suite 900

Office of Water & Watersheds, OWW-134

1200 Sixth Avenue, Seattle, WA 98101

Phone: (206) 553-8510 (x-0165 fax)

E-mail: seaborne.rick@epa.gov

Web: www.epa.gov/owow/nps

Jayne Carlin---04/28/2011 06:19:27 PM---Hi All, Thank you Allison for the wonderful introduction. I am very excited about joining your team

From: Jayne Carlin/R10/USEPA/US

To: Allison Castellan <Allison.Castellan@noaa.gov>, BAILEY Bob <Bob.Bailey@state.or.us>, David Powers/R10/USEPA/US@EPA, Don Waye/DC/USEPA/US@EPA, FOSTER Eugene P <FOSTER.Eugene@deq.state.or.us>, MULLANE Neil <MULLANE.Neil@deq.state.or.us>, YON Donald R <YON.Donald@deq.state.or.us>

Cc: David Croxton/R10/USEPA/US@EPA, Rick Seaborne/R10/USEPA/US@EPA

Date: 04/28/2011 06:19 PM

Subject: ACTION: Availability for OR CZARA Conference Call in June, Review Draft Agenda and Commitments/Timeline

Hi All,

Thank you Allison for the wonderful introduction. I am very excited about joining your team.

I would like to set up a conference call in June using doodle poll. Given the vacation season, I'd like to check first on any dates or times I should avoid in June. Please let me know of any vacations, travel or routine meetings between 9 AM - 1 PM (PST) during June.

Below is my cut at an agenda. Please review.

Proposed Agenda

Introductions and Updates

OSDS: 2011 Oregon Legislature's support of time-of-sale inspections Update and Action Items/Next Steps

New Development: Review/Comment/Discussion on Guidance Document (Incorporation of New Development Management Measure Requirements/Practices within TMDL Implementation Guidelines for the Coastal Nonpoint Program Management Area)

Forestry/Implementation Ready TMDLs: ODEQ's Schedule for implementing the Oregon Coastal TMDL Approach & Technical Approach for Temperature (and other parameters as ready for discussion and review)

Next Steps/Action Items for New Development & Forestry/Implementation Ready TMDLs

This agenda was based on my understanding of Oregon's CZARA Settlement Agreement Commitments and Timelines which I list

below. Please review and let me know of any updates, corrections etc.

OREGON CZARA SETTLEMENT AGREEMENT COMMITMENTS

All

May 15, 2014

EPA/ NOAA shall either: (a) issue a Full Approval Decision Memorandum approving, without conditions, Oregon's Coastal Nonpoint Pollution Control Program, pursuant to 16 U.S.C. § 1455b(c)(1); or (b) make a finding that the State of Oregon has failed to submit an approvable program, pursuant to 16 U.S.C. § 1455b(c)(3) and (4). If EPA and NOAA make a finding that the State of Oregon has failed to submit an approvable program, the agencies shall, pursuant to 16 U.S.C. § 1455b(c)(3) and (4), withhold Clean Water Act Section 319 and Coastal Zone Management Act Section 306 grant funds from Oregon beginning in the funding cycles that immediately follow the agencies' finding and in all future years unless and until EPA and NOAA issue a Full Approval Decision Memorandum approving the State's Coastal Nonpoint Pollution Control Program without conditions.

November 15, 2013

NOAA/EPA publish in FR a notice announcing a proposed decision to either: (a) issue a Full Approval Decision Memorandum approving, without conditions, Oregon's Coastal Nonpoint Pollution Control Program, pursuant to 16 U.S.C. § 1455b(c)(1); or (b) make a finding that the State of Oregon has failed to submit an approvable program, pursuant to 16 U.S.C. § 1455b(c)(3) and (4).

Management Measures for Forestry/Implementation Ready TMDLs Commitments

1. Commit to the prescriptive TMDL (now known as implementation-ready TMDL), Implementation Plan, and "safe harbor" BMP approach (Option 1 under the State's proposal) that will satisfy the additional management measures for forestry condition, specifically addressing riparian and landslide-prone areas, and road issues.
2. Provide a legal opinion from the Oregon Attorney General's Office that clearly concludes Oregon DEQ has the authority to prevent nonpoint source pollution and require implementation of the additional management measures for forestry. Specifically, under the state's current proposal, the legal opinion must conclude that DEQ has the authority to enforce TMDLs, including "safe harbor" BMPs, with regard to riparian buffers, landslide prone areas, and legacy roads.
3. Provide a more detailed description of the new prescriptive TMDL process. This revised description should:
 - a. Clarify the mechanism DEQ plans on using to require prescriptive, "safe harbor" BMPs. Will the BMPs (or possibly a menu of "safe harbor" BMPs to select from) be placed in the TMDLs themselves or only included in the TMDL Implementation Plans? Does DEQ's enforcement authority apply to both TMDLs and Implementation Plans?
 - b. Briefly describe how the prescriptive TMDL approach will address NOAA and EPA's concerns with landslide prone area and road density and maintenance, particularly on "legacy roads."
 - c. Provide a few examples of the types of "safe harbor" BMPs Oregon would use to address our concerns about adequate protection of riparian and landslide-prone areas and management/maintenance of forestry roads, specifically legacy roads, and meet load allocations and surrogate targets.
 - d. Briefly describe DEQ's approval/disapproval process for TMDL Implementation Plans.
4. Provide a schedule for developing new prescriptive TMDLs and safe harbor BMPs and updating existing TMDLs and Implementation Plans within the 6217 boundary following the new prescriptive TMDL process.
5. Complete and submit to EPA and NOAA a prescriptive TMDL that includes safe harbor BMPs and a TMDL Implementation Plan for the Mid-Coast basins and that addresses the outstanding additional management measures for forestry condition.

Timeline

December 31, 2012

EPA and NOAA shall provide ODEQ with a written initial assessment that will evaluate (a) whether implementation of the Oregon Coastal TMDL Approach in the Mid-Coast Sub-basins, including the safe harbor BMPs, is likely to result in actions that achieve and maintain water quality standards, and (b) whether Oregon's plan for developing and updating TMDLs for all sub-basins in the CNPCP management area using the Oregon Coastal TMDL Approach could satisfy the outstanding forestry condition on Oregon's CNPCP under 16 U.S.C. § 1455b(b)(3). In developing their initial assessment, EPA and NOAA shall consider any comments Plaintiff may have submitted with respect to ODEQ's proposed TMDLs and BMPs. EPA and NOAA shall send a copy of the written initial assessment to Plaintiff.

June 30, 2012

ODEQ submits The Mid-Coast Basin TMDLs (implementing the Oregon Coastal TMDL Approach) to EPA/NOAA

March 31, 2011

ODEQ's Schedule for implementing the Oregon Coastal TMDL Approach throughout the Coastal Nonpoint Program management area which includes a timeline for developing new TMDLs as well as updating existing TMDLs to EPA/NOAA.

January 31, 2011: Provide additional detail on the prescriptive TMDL process (Done).

July 1, 2010 to June 30, 2012

Provides that \$100,000 from the CWA Section 319 funding be used for each of the two years for development of the Oregon Coastal TMDL Approach

June 30, 2010: Submit a legal opinion from Oregon's Attorney General's Office (Done)

September 30, 2010: Provide commitment that Oregon will pursue prescriptive TMDL process for addressing the additional management measures for forestry condition (Done)

OSDS:

Commitments

Adopt new rules requiring regular inspections for OSDS. Inspecting the systems at time of property transfer by trained/certified inspectors as laid out in Oregon's October 29, 2009 draft strategy is sufficient. Please provide NOAA/EPA with a copy of the draft rules to review to ensure the final rules will meet Coastal Nonpoint Program requirements.

Timeline:

March 2013: Rule implementation and inspections begin.

January 31, 2013: Submit new rules to NOAA and EPA for review/approval.

December 31, 2012: Rule development completed

June through December 2012: Provide draft of rule language to NOAA and EPA for review/comment.

January 2011 through June 2011: Request funding from the 2011 Oregon Legislature to support time-of-sale inspections for OSDS.

November 30, 2010: Policy Option Package for Rules Development complete. (Done)

New Development:

Commitments

1. Complete TMDL Implementation Guidelines for the Coastal Nonpoint Program management area that incorporate the new development management measure requirements or practices consistent with the new development measure. Please provide NOAA and EPA with draft of the guidance to review to ensure the final product will meet Coastal Nonpoint Program requirements.
2. Submit a strategy and schedule for completing and updating TMDL Implementation Plans within the Coastal Nonpoint Program management area to be consistent with the new TMDL Implementation Guidance.

Timeline:

June/July 2011: Workshops for Designated Management Agencies begins.

June 30, 2011: Final guidance document released and submitted to NOAA and EPA, along with strategy and schedule for updating TMDL Implementation Plans.

March 31, 2011: Public review of final draft guidance document completed.

December 31, 2010: Final draft guidance document completed and provide to NOAA and EPA for review and comment.

June 30, 2010: Initial draft guidance document completed and provided to NOAA and EPA for review and comment.

Cheers,

Jayne Carlin, Watersheds Unit

US EPA, Region 10

1200 6th Ave, Suite 900 (OWW-134)

Seattle, WA 98101-3140

(206) 553-8512, (206) 553-0165 (fax)

carlin.jayne@epa.gov

<http://www.epa.gov/r10earth/tmdl.htm>